

§ 6-1433.01 Public Guardian nomination procedures.

(A) The individual filing the petition/application to appoint the Public Guardian shall provide notice of the nomination to the Office of Public Guardian. Notice shall be given on a separate form approved by the State Court Administrator's Office.

(B) Upon receiving notice of nomination, the Office of Public Guardian shall file with the court, within 14 days: (1) an acknowledgment of nomination and (2) verification of caseload capacity subject to statutory requirements of the Public Guardianship Act.

(C) If the Office of Public Guardian is unable to accept the nomination due to its caseload capacity status, good cause shall be presumed to exist to deny its appointment. The appearance of the Office of Public Guardian shall no longer be required.

(D) The court shall appoint a visitor consistent with Neb. Rev. Stat. § 30-2619.01, or a guardian ad litem pursuant to Neb. Rev. Stat. § 30-2222(4), within 10 judicial days of the filing of acknowledgment and caseload capacity verification by the Office of Public Guardian if the verification shows the Office of Public Guardian has capacity to take the case. If the acknowledgment and caseload capacity verification shows the Office of Public Guardian does not have capacity to take the case, the court may request the case be placed on the Office of Public Guardian waiting list. If the court requests the case be placed on the Office of Public Guardian waiting list, the court shall appoint a visitor consistent with Neb. Rev. Stat. § 30-2619.01, or a guardian ad litem pursuant to Neb. Rev. Stat. § 30-2222(4), within 10 judicial days of the request to place the case on the Office of Public Guardian waiting list.

(E) The visitor or guardian ad litem report shall comply with Neb. Rev. Stat. § 30-2619.03, and to assist the Office of Public Guardian fulfill its duties mandated by the Public Guardianship Act, the report will include a standard form approved by the State Court Administrator's Office to include information required by Neb. Rev. Stat. § 30-2619.01.

(F) The Office of Public Guardian shall have 10 judicial days to file responses to the visitor or guardian ad litem report.

(G) Once the Office of Public Guardian receives the visitor report, it shall file another verification of caseload capacity within five judicial days. If the visitor or guardian ad litem report shows that there is no one other than the Office of Public Guardian to serve as guardian and/or conservator and if the Office of Public Guardian has capacity to take the case, then the Office of Public Guardian shall not accept any additional appointments which would in the interim cause its capacity to be exceeded before final determination is made by the court as to its appointment.

(H) Unless otherwise ordered by the court, hearing on the petition for appointment of the Office of Public Guardian shall not take place less than 60 days but no more than 90 days from the filing of nomination.

(I) In addition to the statutory requirements, in the order to appoint the Office of Public

Guardian as a guardian or conservator, the order of appointment shall also provide:

- (1) Proper notice has been given to the Office of Public Guardian;
- (2) The petitioner has acted in good faith and due diligence to identify a guardian or conservator who would serve in the best interest of the alleged incapacitated person;
- (3) The appointment of the Office of Public Guardian is necessary and does not exceed the caseload limitations as set forth by statute;
- (4) That the visitor or guardian ad litem report has provided supporting evidence that no person is available for appointment as guardian or conservator, all options available to support the individual in the least restrictive manner possible has been explored, and guardianship is a last resort; and
- (5) There is no other alternative than to appoint the Office of Public Guardian.

(J) When the Office of Public Guardian has no available caseload capacity to assume the duties of guardian and conservator at the time of the appointment, the court may order that the case be placed on the waiting list, as provided by the Office of Public Guardian, if the court finds:

- (1) Proper notice was given to the Office of Public Guardian;
- (2) The petitioner has acted in good faith and due diligence to identify a guardian or conservator who would serve in the best interest of the alleged incapacitated person;
- (3) The appointment of the Office of Public Guardian would be necessary, but that no current caseload capacity exists to serve the individual by the Office of Public Guardian, as set forth by statute; and
- (4) That the visitor or guardian ad litem report as outlined in these procedures has been completed and supports the appointment of the Office of Public Guardian, but for the lack of capacity by the Office of Public Guardian, all options available to support the individual in the least restrictive manner possible has been explored, and the guardianship is a last resort.

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